

Approved For Release 2002/05/06 : CIA-RDP57-00384R000500120132-0

Acting Chief, Finance Division

18 June 1951

Office of the General Counsel

Annual Leave Rider

1. Reference is made to your memorandum of 6 April 1951, concerning Section 1212 of Public Law 759, 81st Congress, which provides that no funds shall be available to pay for annual leave accumulated during 1950 and unused at the close of business on 30 June 1951. This section does not apply to "employees whose post of duty is outside the continental United States," and you have requested clarification of this phrase.

2. You have submitted five questions for our consideration, and we shall answer each one separately in the following manner:

Question A: Must an employee be physically located at his overseas post of duty on 30 June 1951, in order to be exempt from the provisions?

Answer A: Perhaps this question should be answered by referring to a proposed decision of the Comptroller General. This decision has been written and reviewed at GAO, but it has not yet been signed by the Comptroller General. It is fairly certain, however, that he will approve the decision as presented for his signature.

In its present form, this decision states that an employee must have arrived at his overseas post of duty prior to the close of business on 30 June 1951 in order to come within the exemption.

Consequently, Question A must be answered generally in the affirmative. There are cases, however, when an employee may be away from his overseas post of duty on 30 June 1951, and still be exempt from the rider. Such cases are discussed in the answer to your Question D.

Question B: Is an employee exempt from these provisions if he is appointed to an overseas position but has not yet arrived at the overseas post? In this connection, we have in mind employees who are appointed to overseas positions and are at Headquarters for indefinite training periods prior to reporting to their overseas posts.

Answer B: No. This answer is based on the proposed decision of the Comptroller General referred to above. This decision probably will be issued during the next few days.

Question C: If answer to B above is negative, at which time will he become exempt, i.e., when he departs from Headquarters, or when he actually arrives at his overseas post of duty?

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Answer C: As mentioned above, the employee becomes exempt as of the time he actually arrives at his overseas post of duty. (This statement is based upon the proposed decision of the Comptroller General).

Question D: Do these provisions apply to an employee who is temporarily absent from his overseas post of duty and in the continental United States because of home leave, temporary duty, detail, or PCS pending assignment to another foreign station?

Answer D: These provisions do not apply to an employee who has arrived at his post of duty prior to the close of business on 30 June 1951, and who is temporarily absent from that post and in the continental United States [redacted] FOIAb5

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[redacted] The same is true of such employees who are in the continental United States on temporary duty. FOIAb5

An employee who is detailed in the United States must be governed by the locus of his permanent duty station. If his permanent duty station is outside the continental United States and he has arrived there prior to the close of business on 30 June 1951, and his permanent duty station remains there while he is detailed to the United States, he is exempt from section 1212.

If an employee is in the continental United States "PCS pending assignment to another foreign station," he is not exempt. The reason for this is that his permanent duty station is the controlling element, as explained in the decision B-99676 of the Comptroller General (dated 11 January 1951).

Question E: Assuming the employee's status as of 30 June 1951 will govern, what effect, if any, will these provisions have on an employee who is officially transferred and reports at Headquarters on PCS orders immediately prior to 30 June 1951 without opportunity to use annual leave earned during calendar year 1950?

Answer E: Strictly speaking, such an employee must forfeit unused annual leave. This is clear from the decision referred to above, B-99676. When this decision was in draft form, it included a provision which would afford relief in such cases. This provision was deleted by reviewing authorities on the theory that administrative officials could prevent such occurrences. It is obvious that this can be accomplished by our administrative personnel. However, if a hardship case arises and it can be demonstrated that the employee had no opportunity to take his leave, we shall be happy to seek relief for the employee on an individual basis.

ILLEGIB 3. This office has taken steps to obtain a copy of the proposed decision of the Comptroller General as soon as possible after its issuance. We shall inform [redacted] of any developments in this matter.

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